

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

## DEMAND FOR JURY TRIAL

-1-



1 (“Defendant”), is in the business of collection third party debts and is a “person”  
2 as defined by *47 U.S.C. § 153 (10)*.

3 6. The above named Defendant, and its subsidiaries and agents, are  
4 collectively referred to as “Defendants.” The true names and capacities of the  
5 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
6 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
7 names. Each of the Defendants designated herein as a DOE is legally responsible  
8 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend  
9 the Complaint to reflect the true names and capacities of the DOE Defendants  
10 when such identities become known.

11 7. Plaintiff is informed and believes that at all relevant times, each and  
12 every Defendant was acting as an agent and/or employee of each of the other  
13 Defendants and was acting within the course and scope of said agency and/or  
14 employment with the full knowledge and consent of each of the other Defendants.  
15 Plaintiff is informed and believes that each of the acts and/or omissions  
16 complained of herein was made known to, and ratified by, each of the other  
17 Defendants.

### 18 **FACTUAL ALLEGATIONS**

19 8. Beginning in or around November 2014, Defendant contacted  
20 Plaintiff on his cellular telephone, (724) 420-3256, in an attempt to collect an  
21 alleged outstanding debt owed by a third party.

22 9. Defendant placed multiple calls a day on a virtual daily basis to  
23 Plaintiff’s cellular telephone seeking to collect the alleged debt owed by a third  
24 party.

25 10. Defendant used an “automatic telephone dialing system”, as defined  
26 by *47 U.S.C. § 227(a)(1)* to place its daily calls to Plaintiff seeking to collect the  
27 debt allegedly owed by “Melissa Walker.”

28 11. Defendant often left voicemail messages on Plaintiff’s cellular

1 telephone if Plaintiff did not answer Defendant's calls. In these messages,  
2 Defendant utilized an "artificial or prerecorded voice" as prohibited by 47 U.S.C.  
3 § 227(b)(1)(A).

4 12. Defendant's calls constituted calls that were not for emergency  
5 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

6 13. Defendant's calls were placed to telephone number assigned to a  
7 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
8 pursuant to 47 U.S.C. § 227(b)(1).

9 14. Plaintiff is not a customer of Defendant's services and has never  
10 provided any personal information, including her cellular telephone number, to  
11 Defendant for any purpose whatsoever. Furthermore, Plaintiff does not know nor  
12 has ever known the third party that the Defendant is attempting to reach.  
13 Accordingly, Defendant never received Plaintiff's "prior express consent" to  
14 receive calls using an automatic telephone dialing system or an artificial or  
15 prerecorded voice on her cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

16 **CLASS ALLEGATIONS**

17 15. Plaintiff brings this action on behalf of himself and all others  
18 similarly situated, as a member of the proposed class (hereafter "The Class")  
19 defined as follows:

20 All persons within the United States who received any  
21 collection telephone calls from Defendant to said  
22 person's cellular telephone made through the use of any  
23 automatic telephone dialing system or an artificial or  
24 prerecorded voice and such person had not previously  
25 consented to receiving such calls within the four years  
prior to the filing of this Complaint

26 16. Plaintiff represents, and is a member of, The Class, consisting of All  
27 persons within the United States who received any collection telephone calls from  
28 Defendant to said person's cellular telephone made through the use of any

1 automatic telephone dialing system or an artificial or prerecorded voice and such  
2 person had not previously not provided their cellular telephone number to  
3 Defendant within the four years prior to the filing of this Complaint.

4 17. Defendant, its employees and agents are excluded from The Class.  
5 Plaintiff does not know the number of members in The Class, but believes the  
6 Class members number in the thousands, if not more. Thus, this matter should be  
7 certified as a Class Action to assist in the expeditious litigation of the matter.

8 18. The Class is so numerous that the individual joinder of all of its  
9 members is impractical. While the exact number and identities of The Class  
10 members are unknown to Plaintiff at this time and can only be ascertained  
11 through appropriate discovery, Plaintiff is informed and believes and thereon  
12 alleges that The Class includes thousands of members. Plaintiff alleges that The  
13 Class members may be ascertained by the records maintained by Defendant.

14 19. Plaintiff and members of The Class were harmed by the acts of  
15 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
16 and Class members via their cellular telephones thereby causing Plaintiff and  
17 Class members to incur certain charges or reduced telephone time for which  
18 Plaintiff and Class members had previously paid by having to retrieve or  
19 administer messages left by Defendant during those illegal calls, and invading the  
20 privacy of said Plaintiff and Class members.

21 20. Common questions of fact and law exist as to all members of The  
22 Class which predominate over any questions affecting only individual members  
23 of The Class. These common legal and factual questions, which do not vary  
24 between Class members, and which may be determined without reference to the  
25 individual circumstances of any Class members, include, but are not limited to,  
26 the following:

- 27 a. Whether, within the four years prior to the filing of this  
28 Complaint, Defendant made any collection call (other than a

1 call made for emergency purposes or made with the prior  
2 express consent of the called party) to a Class member using  
3 any automatic telephone dialing system or any artificial or  
4 prerecorded voice to any telephone number assigned to a  
5 cellular telephone service;

6 b. Whether Plaintiff and the Class members were damages  
7 thereby, and the extent of damages for such violation; and

8 c. Whether Defendant should be enjoined from engaging in such  
9 conduct in the future.

10 21. As a person that received numerous collection calls from Defendant  
11 using an automatic telephone dialing system or an artificial or prerecorded voice,  
12 without Plaintiff's prior express consent, Plaintiff is asserting claims that are  
13 typical of The Class.

14 22. Plaintiff will fairly and adequately protect the interests of the  
15 members of The Class. Plaintiff has retained attorneys experienced in the  
16 prosecution of class actions.

17 23. A class action is superior to other available methods of fair and  
18 efficient  
19 adjudication of this controversy, since individual litigation of the claims of all  
20 Class members is impracticable. Even if every Class member could afford  
21 individual litigation, the court system could not. It would be unduly burdensome  
22 to the courts in which individual litigation of numerous issues would proceed.  
23 Individualized litigation would also present the potential for varying, inconsistent,  
24 or contradictory judgments and would magnify the delay and expense to all  
25 parties and to the court system resulting from multiple trials of the same complex  
26 factual issues. By contrast, the conduct of this action as a class action presents  
27 fewer management difficulties, conserves the resources of the parties and of the  
28 court system, and protects the rights of each Class member.

1        24. The prosecution of separate actions by individual Class members  
2 would create a risk of adjudications with respect to them that would, as a practical  
3 matter, be dispositive of the interests of the other Class members not parties to  
4 such adjudications or that would substantially impair or impede the ability of such  
5 non-party Class members to protect their interests.

6        25. Defendant has acted or refused to act in respects generally applicable  
7 to The Class, thereby making appropriate final and injunctive relief with regard to  
8 the members of the California Class as a whole.

9                                    **FIRST CAUSE OF ACTION**

10                    **Negligent Violations of the Telephone Consumer Protection Act**

11                                    **47 U.S.C. §227 et seq.**

12        26. Plaintiff repeats and incorporates by reference into this cause of  
13 action the allegations set forth above at Paragraphs 1-25.

14        27. The foregoing acts and omissions of Defendant constitute numerous  
15 and multiple negligent violations of the TCPA, including but not limited to each  
16 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

17        28. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*  
18 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in  
19 statutory damages, for each and every violation, pursuant to *47 U.S.C. §*  
20 *227(b)(3)(B)*.

21        29. Plaintiff and the Class members are also entitled to and seek  
22 injunctive relief prohibiting such conduct in the future.

23                                    **SECOND CAUSE OF ACTION**

24                    **Knowing and/or Willful Violations of the Telephone Consumer Protection**  
25                                    **Act**

26                                    **47 U.S.C. §227 et seq.**

27        30. Plaintiff repeats and incorporates by reference into this cause of  
28 action the allegations set forth above at Paragraphs 1-29.

31. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

32. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

33. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*.
- Any and all other relief that the Court deems just and proper.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to *47 U.S.C. §227(b)(3)(B)* and



1                   47 U.S.C. §227(b)(3)(C).

- 2                   • Any and all other relief that the Court deems just and proper.

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4                   Respectfully Submitted this 8<sup>th</sup> Day of August, 2015.

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6                   LAW OFFICES OF TODD M. FRIEDMAN, P.C.

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8                   By: /s/ Cynthia Z. Levin  
9                   Cynthia Z. Levin  
10                  Law Offices of Todd M. Friedman  
11                  Attorney for Plaintiff  
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